

ESTTA Tracking number: **ESTTA512187**

Filing date: **12/20/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Comvita Limited		
Entity	Limited company	Citizenship	New Zealand
Address	Wilson Road South Paengaroa, Te Puke, NEW ZEALAND		
Attorney information	Laura J. Winston Law Office of Laura J. Winston 52 Main Street Hastings-on-Hudson, NY 10706 UNITED STATES tmdocket@winstoniplaw.com Phone:914-231-7822		

Registrations Subject to Cancellation

Registration No	4211756	Registration date	09/18/2012
Registrant	ManukaMed Limited 13 Edwin Feist Place Masterton, NEW ZEALAND		

Goods/Services Subject to Cancellation

Class 005. First Use: 2010/03/01 First Use In Commerce: 2010/03/01
All goods and services in the class are cancelled, namely: Throat lozenges containing medical grade Manuka honey

Grounds for Cancellation

Genericness	Trademark Act section 23		
Registration No	4211757	Registration date	09/18/2012
Registrant	ManukaMed Limited 13 Edwin Feist Place Masterton, NEW ZEALAND		

Goods/Services Subject to Cancellation

Class 005. First Use: 2010/03/01 First Use In Commerce: 2010/03/01
All goods and services in the class are cancelled, namely: Dietary supplements in the nature of gel capsules containing medical grade Manuka honey

Grounds for Cancellation

Genericness	Trademark Act section 23
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Registration No	4211761	Registration date	09/18/2012
Registrant	ManukaMed Limited 13 Edwin Feist Place Masterton, NEW ZEALAND		

Goods/Services Subject to Cancellation

Class 005. First Use: 2010/03/01 First Use In Commerce: 2010/03/01
All goods and services in the class are cancelled, namely: Medicated lip balm containing medical grade Manuka honey

Grounds for Cancellation

Genericness	Trademark Act section 23
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Attachments	12-20-12 Petition to Cancel MANUKALOEZENGES.pdf (4 pages)(71758 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Laura J. Winston/
Name	Laura J. Winston
Date	12/20/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

COMVITA LIMITED,)	
)	
	)	Cancellation No. _____
Petitioner;)	
	)	Mark: MANUKALOEZENGES
	)	Registration No. 4,211,756
	)	Registered: September 18, 2012
v.)	
	)	Mark: MANUKACAPS
	)	Registration No. 4,211,757
	)	Registered: September 18, 2012
MANUKAMED LIMITED,)	
	)	Mark: MANUKABALM
	)	Registration No. 4,211,761
Respondent.	)	Registered: September 18, 2012
)	
)	

CONSOLIDATED PETITION TO CANCEL

Petitioner, Comvita Limited, a New Zealand limited company having its principal place of business at Wilson Road South, Paengaroa, Te Puke, New Zealand, believes that it will be damaged by Registration No. 4,211,756, Registration No. 4,211,757 and Registration No. 4,211,761, and hereby petitions to cancel the same.

To the best of Petitioner's knowledge, the name of the current owner of the registration is ManukaMed Limited, with an address at 13 Edwin Feist Place, Masterton, New Zealand.

The grounds for cancellation are as follows:

1. Petitioner is engaged in the distribution and sale in the United States of products containing manuka honey, including lozenges containing manuka honey, and

has been engaged in such distribution and sale in the United States since at least as early as 2006.

2. Registrant obtained Registration No. 4,211,756 on the Supplemental Register for MANUKALOZENGES on September 18, 2012 for “throat lozenges containing medical grade Manuka honey” in International Class 5, claiming a first use date of March 1, 2010.

3. Registrant obtained Registration No. 4,211,757 on the Supplemental Register for MANUKACAPS on September 18, 2012 for “dietary supplements in the nature of gel capsules containing medical grade Manuka honey” in International Class 5, claiming a first use date of March 1, 2010.

4. Registrant obtained Registration No. 4,211,761 on the Supplemental Register for MANUKABALM on September 18, 2012 for “medicated lip balm containing medical grade Manuka honey” in International Class 5, claiming a first use date of March 1, 2010.

5. “Manuka” is the Maori word for the plant *Leptospermum scoparium* and has been adopted as the common name for this plant. The honey that comes from the manuka plant is known as manuka honey.

6. Manuka honey is sought after for its antibacterial and other medicinal properties.

7. “Manuka” is a generic term for the honey derived from the manuka plant.

8. Manuka honey is used in the manufacture of some medicinal lozenges, ingestible capsules and other ingestible health products. Manuka honey is also used in the manufacture of some lip balms.

9. “Lozenge” is a generic term for a medicated tablet held in the mouth until it has dissolved.
10. “Cap” is a generic term for a medicinal capsule.
11. “Balm” is a generic term for an oily, fragrant, resinous substance, often of medicinal value, exuding from certain plants.
12. Registrant’s mark MANUKALOZENGES is generic for the goods recited in Registration No. 4,211,756.
13. Registrant’s mark MANUKACAPS is generic for the goods recited in Registration No. 4,211,757.
14. Registrant’s mark MANUKABALM is generic for the goods recited in Registration No. 4,211,761.
15. If Registrant is permitted to retain the registrations sought to be cancelled, Petitioner and other manufacturers and sellers of manuka lozenges, manuka balms and manuka capsules will be subject to interference with their legitimate commercial interests. Thus each registration is a source of significant potential harm to Petitioner and others.
16. Petitioner will be damaged by the existence of Registration Nos. 4,211,756, 4,211,757 and 4,211,761 because the trademarks MANUKALOZENGES, MANUKACAPS and MANUKBALM provide Registrant with ownership of generic phrases that deprives Petitioner and others of the right to use the generic phrases “manuka lozenges”, “manuka balm” and manuka caps” in association with their products.

WHEREFORE, Petitioner requests that Registration Nos. 4,211,756, 4,211,757 and 4,211,761 be cancelled and that this Consolidated Petition to Cancel be sustained in favor of the Petitioner.

Respectfully submitted,

LAW OFFICE OF LAURA J. WINSTON

Dated: December 20, 2012

By /Laura J. Winston/
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition to Cancel has been served on Registrant ManukaMed Limited, 13 Edwin Feist Place, Masterton, New Zealand by sending same via "First Class Mail-International with Return Receipt" service to the aforementioned address this 20th day of December, 2012.

/Laura J. Winston/
Laura J. Winston